

RECEIVED
CENTRAL FAX CENTER

JAN 21 2004

FAX TRANSMISSION

OFFICIAL

DATE: January 21, 2004

PTO IDENTIFIER: Application Number 09/397,008-Conf. #8229
Patent Number

Inventor: Lawrence M. Ausubel

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (703) 872-9306

FROM: CONNOLLY BOVE LODGE & HUTZ LLP

Stanley B. Green

PHONE: (202) 331-7111

Attorney Dkt. #: 21736-00012-US

PAGES (Including Cover Sheet): 4

CONTENTS: Response to Restriction Requirement (2 pages) and
Certificate of Transmission under 37 CFR 1.8 (1 page).

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (202) 331-7111 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800, Washington, DC 20036-3425
Telephone: (202) 331-7111 Facsimile: (202) 293-6229

PTO/SB/97 (12-97)

Approved for use through 9/30/00. OMB 0851-0031

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

~~Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.~~

Certificate of Transmission Under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on January 21, 2004
Date


Signature

Diana M. Francis
Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Response to Restriction Requirement (2 pages) and
Certificate of Transmission under 37 CFR 1.8 (1 page).

#66 w
1-30-04

OFFICIAL

Docket No.: 21736-00012-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

JAN 21 2004

In re Patent Application of:
Lawrence M. Ausubel

Application No.: 09/397,008

Confirmation No.: 8229

Filed: September 15, 1999

Art Unit: 3628

For: ASCENDING BID AUCTION FOR MULTIPLE
OBJECTS

Examiner: Poinvil, Frantzy

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the restriction requirement set forth in the Office Action mailed December 24, 2003. This application contains claims 26-30 and 43-185. In a previous Office Action dated April 15, 2003, claims 26-30 and 43-107 were acted on. The action indicated that claims 26-30 and 43-70 were allowed, and claims 76-107 would be allowed if rewritten or amended to overcome the rejection of 35 USC 112, Second Paragraph.

In response to the April 15 rejection, applicant added claims 108 through 185, and thereafter received the restriction requirement of December 24. That restriction requirement required restriction among seven groups of claims identified as:

1. Claims 43-66 and 26-30 which were said to be "classified in class 705, subclass 37";
2. Claims 67-70 said to be "classified in class 705, subclass 37";
3. Claims 76-107 "classified in class 705, subclass 37";

Application No.: 09/397,008

Docket No.: 21736-00012-US

4. Claims 108-159 "classified in class 705, subclass 37";
5. Claims 160-173 "classified in class 705, subclass 37";
6. Claims 182-185 "classified in class 705, subclass 37";
7. Claims 174-181 "classified in class 705, subclass 37".

The requirement alleged that the inventions were distinct because "in the invention of Group 1-5 and 7, it is not necessary for a bidder to input a transaction curve corresponding to a current price, as recited in Group 6."

Applicant submits that the alleged reason does not support a seven-way restriction requirement, at most, it supports a requirement to restrict Group 6 from Groups 1-5 and 7.

In discussing the criteria for distinct inventions, the MPEP specifies, at § 808.02 that a restriction requirement must be supported by one of three different justifications either: (a) a separate classification; or (b) a separate status in the art; or (c) a different field of search.

While the restriction requirement concludes that there is "a separate status in the art" the classification alleged for each of the seven different groups is the same. In fact, the requirement itself indicates that there is no separate classification, e.g., all the supposed different inventions are classified identically. There are no facts described or alluded to which support an allegation that the different inventions have achieved a separate status in the art, and likewise there are no facts alleged to indicate that there is a separate field of search. Indeed, the identical classification would suggest that the field of search is also identical.

In view of the foregoing, reconsideration and withdrawal of the restriction requirement is solicited. At most, applicant believes that the claims should be divided into two groups, which distinguish claims 182-185, reciting the use of "transaction curve information" from the remaining claims.

Application No.: 09/397,008

Docket No.: 21736-00012-US

In order to comply with the requirements of the rules, applicant provisionally elects Group 4 (claims 108-159) although, as has been indicated, the restriction requirement is traversed.

Dated: January 21, 2004

Respectfully submitted,

By Stanley B. Green
Stanley B. Green

Registration No.: 24,351
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036-3425
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicant